

**ECONOMIC DEVELOPMENT AUTHORITY[261]**

**Notice of Intended Action**

**Proposing rule making related to angel investor tax credits  
and providing an opportunity for public comment**

The Economic Development Authority hereby proposes to amend Chapter 115, “Tax Credits for Investments in Qualifying Businesses and Community-Based Seed Capital Funds,” Iowa Administrative Code.

*Legal Authority for Rule Making*

This rule making is proposed under the authority provided in Iowa Code sections 15.106A and 15E.43.

*State or Federal Law Implemented*

This rule making implements, in whole or in part, Iowa Code sections 15E.43 and 15E.44.

*Purpose and Summary*

Tax credits for investments in qualifying businesses and community-based seed capital funds, also known as angel investor tax credits, are administered by the Authority pursuant to Iowa Code chapter 15E, subchapter V. A taxpayer may receive a tax credit of 25 percent of the taxpayer’s equity investment in Iowa businesses that meet criteria established in Iowa Code section 15E.44.

This proposed rule making clarifies the processes for businesses and investors to participate in the program and eliminates references to provisions related to community-based seed capital funds that were repealed in 2015. The amendments would set a cut-off date for the waitlist maintained by the Authority for applications received in excess of the \$2 million-per-year aggregate allocation for the program. Only applications received on or before March 31, 2022, would be placed on a waitlist. After that date, applicants may submit applications only during designated periods established by the Authority for fiscal years in which tax credits are available. The amendments also address applications received in excess of calendar year caps for investments in one qualifying business or by a natural person and that person’s spouse or dependents.

*Fiscal Impact*

A fiscal impact cannot be determined. It is unknown what impact eliminating the waitlist will have on utilization of the program.

*Jobs Impact*

After analysis and review of this rule making, no impact on jobs has been found.

*Waivers*

Any person who believes that the application of the discretionary provisions of this rule making would result in hardship or injustice to that person may petition the Authority for a waiver of the discretionary provisions, if any, pursuant to 261—Chapter 199.

*Public Comment*

Any interested person may submit written or oral comments concerning this proposed rule making. Written or oral comments in response to this rule making must be received by the Authority no later than 4:30 p.m. on February 1, 2022. Comments should be directed to:

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### *Public Hearing*

No public hearing is scheduled at this time. As provided in Iowa Code section 17A.4(1)“b,” an oral presentation regarding this rule making may be demanded by 25 interested persons, a governmental subdivision, the Administrative Rules Review Committee, an agency, or an association having 25 or more members.

### *Review by Administrative Rules Review Committee*

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rule making by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rule making at its [regular monthly meeting](#) or at a special meeting. The Committee’s meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rule-making actions are proposed:

ITEM 1. Amend **261—Chapter 115**, title, as follows:

#### **TAX CREDITS FOR INVESTMENTS IN QUALIFYING BUSINESSES AND COMMUNITY-BASED SEED CAPITAL FUNDS**

ITEM 2. Amend rule 261—115.1(15E) as follows:

**261—115.1(15E) Tax credits for investments in qualifying businesses and community-based seed capital funds.** Tax credits for investments in qualifying businesses and community-based seed capital funds may be claimed as provided in this rule and any applicable rules of the department of revenue.

**115.1(1) Tax credits allowed only after a certain date.** A taxpayer may claim a tax credit under this rule for equity investments in certain qualifying businesses or community-based seed capital funds. Only equity investments made on or after January 1, 2011, qualify for a tax credit under this rule. Equity investments made before that date must be claimed under 123—Chapter 2.

**115.1(2)** No change.

~~**115.1(3) Investments in community-based seed capital funds.**~~

~~*a.*—A taxpayer may claim a tax credit under this subrule for a portion of the taxpayer’s equity investment in a community-based seed capital fund if that investment was made on or after January 1, 2011.~~

~~*b.*—The tax credit may be claimed against the taxpayer’s tax liability for any of the following taxes:~~

~~(1) The personal net income tax imposed under Iowa Code chapter 422, division II.~~

~~(2) The business tax on corporations imposed under Iowa Code chapter 422, division III.~~

~~(3) The franchise tax on financial institutions imposed under Iowa Code chapter 422, division V.~~

~~(4) The tax on gross premiums of insurance companies imposed under Iowa Code chapter 432.~~

~~(5) The tax on moneys and credits imposed under Iowa Code section 533.329.~~

~~*c.*—Investments made in community-based seed capital funds on or after January 1, 2011, and before July 2, 2015, are governed by 2015 Iowa Code sections 15E.41 to 15E.46, 422.11F, 422.33, 422.60, 432.12C, and 533.329.~~

~~*d.*—Investments made in community-based seed capital funds on or after July 2, 2015, are not eligible for tax credits. See 2015 Iowa Acts, Senate File 510, sections 107 to 128, which include the repeal~~

of Iowa Code section 15E.45 and other provisions related to the administration of community-based seed capital funds.

**~~115.1(4)~~ 115.1(3)** *Amount of tax credit that may be claimed by taxpayer.*

*a.* In the case of investments made on or after July 1, 2011, and before July 2, 2015, the amount of tax credit available to a taxpayer under this rule is equal to 20 percent of the taxpayer's equity investment in either a qualifying business or community-based seed capital fund. In the case of investments made on or after July 2, 2015, the amount of tax credit available to a taxpayer under this rule is equal to 25 percent of the taxpayer's equity investment in a qualifying business.

*b.* In the case of investments made on or after July 1, 2011, and before July 2, 2015, the maximum amount of a tax credit for an investment by an investor in any one qualifying business shall be \$50,000. Each year, an investor, and all affiliates of that investor, shall not claim tax credits under this rule for more than five different investments in five different qualifying businesses. In the case of investments made on or after July 2, 2015, the maximum amount of tax credit that may be issued per calendar year to a natural person and the person's spouse or dependent shall not exceed \$100,000 combined. For purposes of this paragraph, a tax credit issued to a partnership, limited liability company, S corporation, estate, or trust electing to have income taxed directly to the individual shall be deemed to be issued to the individual owners based upon the pro rata share of the individual's earnings from the entity. For purposes of this paragraph, "dependent" has the same meaning as provided by the Internal Revenue Code. Applications received by the authority that exceed the maximum amount of tax credits per calendar year to a natural person and the person's spouse or dependent will be denied by the board, regardless of whether the investment was otherwise eligible to receive a tax credit award. Any application that can be partially approved without exceeding the maximum amount in this paragraph will be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount. For example, if an application is eligible for \$50,000 of tax credits, but there is only \$30,000 of the household maximum amount available, the application will be approved for \$30,000 and denied for \$20,000.

*c.* ~~Investments in community-based seed capital funds.~~

~~(1) An investor in a community-based seed capital fund shall receive a tax credit pursuant to this rule only for the investor's investment in the community-based seed capital fund and shall not receive any additional tax credit for the investor's share of investments in a qualifying business made by the community-based seed capital fund or in an Iowa-based seed capital fund which has at least 40 percent of its committed capital subscribed by community-based seed capital funds. However, an investor in a community-based seed capital fund may receive a tax credit under this rule with respect to a separate direct investment made by the investor in the same qualifying business in which the community-based seed capital fund invests.~~

~~(2) Paragraph "c" only applies to investments in community-based seed capital funds made on or after July 1, 2011, and before July 2, 2015.~~

~~*d. c.* The maximum amount of tax credits that may be issued per calendar year for equity investments in any one qualifying business shall not exceed \$500,000. Applications received by the authority that exceed the maximum amount of tax credits per calendar year in any one qualifying business will be denied by the board, regardless of whether the investment was otherwise eligible to receive a tax credit award. Any application that can be partially approved without exceeding the maximum amount in this paragraph will be approved as to the portion less than the maximum amount and denied as to the portion greater than the maximum amount. For example, if an application is eligible for \$50,000 of tax credits, but there is only \$30,000 of the business maximum amount available, the application will be approved for \$30,000 and denied for \$20,000.~~

**~~115.1(5)~~ 115.1(4)** *Claiming an investment tax credit.* A taxpayer that makes an investment in a qualifying business ~~or community-based seed capital fund~~ and that otherwise meets the requirements of this chapter will receive a board-approved tax credit certificate from the authority. To claim the credit, the taxpayer must ~~attach~~ include the certificate ~~to~~ with a tax return filed with the department of revenue. For more information on claiming the tax credit, see department of revenue ~~rule rules~~ 701—42.22(15E,422), 701—52.21(15E,422), and 701—58.11(15E,422). ~~See also 2015 Iowa Acts, chapter 138, division XX.~~

~~115.1(6) Tax credits for pass-through entities.~~ If the taxpayer that is entitled to a tax credit for an investment in a community-based seed capital fund or a qualifying business is a pass-through entity electing to have its income taxed directly to its individual owners, such as a partnership, limited liability company, S corporation, estate or trust, the pass-through entity must allocate the allowable credit to each of the individual owners of the entity on the basis of each owner's pro-rata share of the earnings of the entity, and the individual owners may claim their respective credits on their individual income tax returns.

~~115.1(7) Refundability for certain tax credits.~~ For a tax credit claimed against the taxes imposed in Iowa Code chapter 422, division II, any tax credit in excess of the tax liability is refundable. In lieu of claiming a refund, the taxpayer may elect to have the overpayment shown on the taxpayer's final, completed return credited to the tax liability for the following tax year.

~~115.1(8) Carryforward period for certain tax credits.~~ For a tax credit claimed against the taxes imposed in Iowa Code chapter 422, divisions III and V, and in Iowa Code chapter 432, and against the moneys and credits tax imposed in Iowa Code section 533.329, any tax credit in excess of the taxpayer's liability for the tax year may be credited to the tax liability for the following three years or until depleted, whichever is earlier.

~~115.1(9) Carryback of credits prohibited.~~ A tax credit shall not be carried back to a tax year prior to the tax year in which the taxpayer redeems the tax credit.

ITEM 3. Amend rule 261—115.2(15E) as follows:

**261—115.2(15E) Definitions.** For purposes of this chapter, unless the context otherwise requires:

*"Affiliate"* means a spouse, child, or sibling of an investor or a corporation, partnership, or trust in which an investor has a controlling equity interest or in which an investor exercises management control.

*"Authority"* means the economic development authority created in 2011 Iowa Acts, House File 590 Iowa Code section 15.105.

*"Board"* means the same as defined in Iowa Code section 15.102 as amended by 2011 Iowa Acts, House File 590, section 3 the members of the economic development authority appointed by the governor and in whom the powers of the authority are vested pursuant to Iowa Code section 15.105.

*"Community-based seed capital fund"* means a fund that meets the following criteria:

1. —Is organized as a limited partnership or limited liability company;
2. —Has, on or after January 1, 2011, a total of capital commitments from both investors and investments in qualifying businesses of at least \$125,000, but not more than \$3 million. If the fund is either a rural business investment company under the Rural Business Investment Program of the federal Farm Security and Rural Investment Act of 2002 or an Iowa-based seed capital fund with at least 40 percent of its committed capital subscribed by community-based seed capital funds, the fund may have more than \$3 million of capital commitments from both investors and investments in qualifying businesses; and

3. —Has no fewer than five investors that are not affiliates, with no single investor and affiliates of that investor together owning a total of more than 25 percent of the ownership interests outstanding in the fund.

*"Controlling equity interest"* means ownership of more than 50 percent of the outstanding equity interests of a corporation, partnership, limited liability company or trust.

*"Convertible debt"* means debt that may be converted to equity at the option of the debt holder but has not yet been converted.

*"Entrepreneurial assistance program"* includes the entrepreneur investment awards program administered under Iowa Code section 15E.362, the receipt of services from a service provider engaged pursuant to Iowa Code section 15.411(1) or the program administered under Iowa Code section 15.411(2).

*"Equity"* means common or preferred corporate stock or warrants to acquire such stock, membership interests in limited liability companies, or partnership interests in partnerships, or near equity. Equity shall be limited to securities or interests acquired only for cash and shall not include securities or interests

acquired at any time for services, contributions of property other than cash, convertible debt, or any other non-cash consideration.

*“Investor”* means a person that makes a cash investment in a ~~community-based seed capital fund or in a qualifying business on or after January 1, 2011, and before July 2, 2015.~~ *“Investor”* also means a person making a cash investment in a qualifying business on or after July 2, 2015. *“Investor”* does not include a person that holds at least a 70 percent ownership interest as an owner, member, or shareholder in a qualifying business ~~for investments made on or after January 1, 2011.~~

*“Management control”* means holding more than 50 percent of the voting power on any board of directors or trustees, any management committee, or any other group managing a corporation, partnership, limited liability company or trust.

*“Person”* means an individual, corporation, limited liability company, business trust, estate, trust, partnership or association, or any other legal entity.

*“Qualifying business”* means, ~~in the case of investments made on or after July 2, 2015, a business that meets all of the following criteria:~~ a business that meets the criteria listed in subrule 115.5(2).

1. ~~The principal business operations of the business are located in the state of Iowa;~~
2. ~~The business has been in operation for six years or less, as measured from the date of the investment for which a credit is claimed;~~
3. ~~The business is participating in an entrepreneurial assistance program. The authority may waive this requirement if a business establishes that its owners, directors, officers, and employees have an appropriate level of experience such that participation in an entrepreneurial assistance program would not materially change the prospects of the business. The authority may consult with outside service providers in consideration of such a waiver;~~
4. ~~The business is not a business engaged primarily in retail sales, real estate or the provision of health care services or other services requiring a professional license;~~
5. ~~The business does not have a net worth that exceeds \$10 million as of the date of the investment for which the credit is claimed; and~~
6. ~~The business shall have secured all of the following at the time of application for tax credits:~~
  - ~~At least two investors.~~
  - ~~Total equity financing, binding investment commitments, or some combination thereof, equal to at least \$500,000 from investors.~~

~~For purposes of paragraph “6,” “investor” includes a person that executes a binding investment commitment to a business.~~

*“Services requiring a professional license”* includes but is not limited to the professions listed in Iowa Code section 496C.2.

ITEM 4. Amend rule 261—115.3(15E) as follows:

**261—115.3(15E) Cash investments required.** In order to qualify for a tax credit under this chapter, the taxpayer’s investment must be made in the form of cash to purchase equity in a qualifying business ~~or in a community-based seed capital fund.~~ Convertible debt shall only be considered an investment in the form of cash to purchase equity as of the date of conversion.

ITEM 5. Amend rule 261—115.4(15E) as follows:

**261—115.4(15E) Applying for an investment tax credit.**

**115.4(1)** A taxpayer that desires to receive an investment tax credit for an equity investment in a qualifying business ~~or community-based seed capital fund~~ shall submit an application to the board for approval and provide such other information and documentation as may be requested by the board. Application forms for the investment tax credit may be obtained by contacting ~~the Economic Development Authority, 200 East Grand Avenue, Des Moines, Iowa 50309. The telephone number is (515)725-3000~~ a qualifying business that has received a notice of certification pursuant to rule 261—115.5(15E).

**115.4(2)** Applications shall be date- and time-stamped by the authority in the order in which such applications are received. Applications for the investment tax credit shall be accepted by the authority until March 31 of the year following the calendar year in which the taxpayer's equity investment was made. For investments made on or after July 2, 2015, and before January 1, 2016, applications for the investment tax credit shall be accepted by the authority until August 17, 2016. Investors who do not submit an application by the March 31 deadline are ineligible to receive a tax credit.

EXAMPLE 1: A taxpayer makes an equity investment in a qualifying business on December 31, 2011. The taxpayer has until March 31, 2012, to apply to the authority for an investment tax credit.

EXAMPLE 2: A taxpayer makes an equity investment in a qualifying business on July 1, 2012. The taxpayer has until March 31, 2013, to apply to the authority for an investment tax credit.

The authority may accept applications after the deadline under extenuating circumstances. The authority shall not consider the lack of an available application filing window pursuant to paragraph 115.6(6) "b" as an extenuating circumstance.

ITEM 6. Rescind rule 261—115.5(15E) and adopt the following **new** rule in lieu thereof:

**261—115.5(15E) Certification of qualifying businesses.**

**115.5(1)** *Application for certification.* Within 120 days from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall apply to the authority for certification as a qualifying business as prescribed by the authority. Investments made more than 120 days prior to receipt by the authority of a substantially complete application for certification shall not be eligible for a tax credit. The application for certification will include the following information:

*a.* A description of the general nature of the business's operations, the location of the principal business operations, the date on which the business was formed, and the date on which the business commenced operations;

*b.* A balance sheet that reflects the qualifying business's assets, liabilities and owner's equity as of the close of the most recent month or quarter;

*c.* A description of the manner in which the business satisfies one of the business experience requirements set forth in paragraph 115.5(2) "c";

*d.* The names, addresses, shares or equity interests issued, consideration paid for the shares or equity interests, and amounts of any tax credits of all shareholders or equity holders who may initially qualify for the tax credits and the date on which the investment was made. The application shall contain a commitment by the qualifying business to amend its list of investors as may be necessary from time to time to reflect new equity interests or transfers in equity among current equity holders or as any other information on the list may change. Applications for tax credits for investments that are not reflected on the most recent listing of investors provided to the authority shall not be eligible for tax credits until an amended list is provided by the qualifying business;

*e.* A signed statement from an officer, director, manager, member, or general partner of the qualifying business certifying the accuracy of the information provided; and

*f.* Any other information as the authority may reasonably require to determine the business's eligibility for certification as a qualifying business and its investors' eligibility to receive tax credits.

**115.5(2)** *Eligibility for certification as a qualifying business.* A business shall meet all the following criteria to be eligible for certification as a qualifying business:

*a.* The principal business operations of the business are located in the state of Iowa;

*b.* The business has been in operation for six years or less, as measured from the date of the investment for which a credit is claimed;

*c.* The business is participating in an entrepreneurial assistance program. The authority may waive this requirement if a business establishes that its owners, directors, officers, and employees have an appropriate level of experience such that participation in an entrepreneurial assistance program would not materially change the prospects of the business. The authority may consult with outside service providers in consideration of such a waiver;

d. The business is not a business engaged primarily in retail sales, real estate, or the provision of health care services or other services requiring a professional license. In determining whether a business is primarily engaged in retail sales, factors the authority will consider include, but are not limited to, the sources of the business's revenue, whether the business manufactures a product it sells, and whether the business owns intellectual property associated with a product it sells;

e. The business does not have a net worth that exceeds \$10 million as of the date of the investment for which the credit is claimed; and

f. The business shall have secured all of the following at the time of application for tax credits:

(1) At least two investors.

(2) Total equity financing, binding equity investment commitments, or some combination thereof, equal to at least \$500,000 from investors. For the purposes of determining whether a business has secured at least \$500,000 from investors, convertible debt shall only be considered equity as of the date of conversion.

For purposes of paragraph 115.5(2) "f," "investor" includes a person that executes a binding investment commitment to a business.

**115.5(3) Authority review and notice of certification.**

a. Upon the authority's receipt of the information and documentation necessary to demonstrate satisfaction of the criteria set forth in subrule 115.5(2), the authority shall, within a reasonable period of time, determine whether a business shall be certified as a qualifying business and, if applicable, issue written notification to the qualifying business that such business has been certified with the authority for the purpose of issuing investment tax credits. The notice shall indicate that such certification is subject to revocation or expiration pursuant to subrule 115.5(4). The authority will indicate in its written notice the first date investments are eligible for a tax credit based on the date of application for certification and the date the authority expects the certification to expire based on the date the business began operations.

b. The authority will only accept applications for investment tax credits from investors in qualifying businesses that have received a written notice of certification.

**115.5(4) Revocation and expiration of certification.**

a. A certified qualifying business must notify the authority as soon as it becomes aware of any changes in its eligibility as a qualifying business or in the eligibility of its investors to receive tax credits. A certified qualifying business shall provide any information as the authority may reasonably request to confirm the business's continued eligibility for certification as a qualifying business and the eligibility of its investors to receive tax credits.

b. If a qualifying business fails to meet or maintain any requirement set forth in this chapter, the authority shall revoke the business's certification as a qualifying business by issuing written notification of revocation to the business. If applicable, the notification shall identify the last date on which the business was eligible to be certified as a qualifying business. Investments made after the identified date will not be eligible for a tax credit.

c. If a business continues to satisfy all eligibility requirements until it has been in operations for more than six years, the business's certification will expire on the date identified as the expected date of expiration pursuant to paragraph 115.5(2) "a." Investments made after the identified date will not be eligible for a tax credit.

ITEM 7. Amend rule 261—115.6(15E) as follows:

**261—115.6(15E) Approval, issuance and distribution of investment tax credits.**

**115.6(1) Approval by the board.** Upon ~~verification and registration~~ certification by the authority of a qualifying business ~~or community-based seed capital fund~~ and approval of the taxpayer's application, the board will approve the issuance of a tax credit certificate to the taxpayer applying for the tax credit.

**115.6(2) Issuance by the authority.** Upon approval by the board, the authority shall issue a tax credit certificate to the applicant, provided, however, that such tax credit certificate shall be subject to rescission pursuant to rule 261—115.9(15E). ~~In the case of investments made on or after July 2, 2015, the authority will not issue a tax credit certificate prior to July 1, 2016.~~

**115.6(3) *Preparation of certificate.*** The tax credit certificate shall be prepared by the authority in a form approved by the board and shall contain the taxpayer's name, address, and tax identification number, the amount of credit, the name of the qualifying business ~~or community-based seed capital fund~~, the year in which the credit may be redeemed and any other information that may be required by the department of revenue. In addition, the tax credit certificate shall contain the following statement:

Neither the authority nor the board has recommended or approved this investment or passed on the merits or risks of such investment. Investors should rely solely on their own investigation and analysis and seek investment, financial, legal and tax advice before making their own decision regarding investment in this enterprise.

**115.6(4) *Tax credit amount limitations.*** The aggregate amount of tax credits issued per fiscal year pursuant to this chapter shall not exceed the amount allocated by the board pursuant to Iowa Code section 15.119, subsection 2. ~~For fiscal year 2012 and all subsequent fiscal years, that amount is \$2 million. In any one calendar year, the amount of tax credits issued for any one qualifying business shall not exceed \$500,000.~~

~~If, during any fiscal year during which tax credits are to be issued under this chapter, applications totaling more than the maximum amounts are received and approved, the applications will be carried forward and prioritized to receive tax credit certificates on a first-come, first-served basis in subsequent fiscal years.~~

~~When carrying forward and prioritizing such applications, the authority shall (1) issue tax credit certificates to the taxpayers for such carryover tax credits before issuing any new tax credits to later applicants, and (2) apply the aggregate amount of the credits carried over against the total amount of tax credits to be issued during the subsequent fiscal year before approving or issuing additional tax credits.~~

**115.6(5) *Waitlist for applications received on or before March 31, 2022.***

a. If the maximum aggregate amount of tax credits is awarded in a given fiscal year, investors who are determined eligible for a tax credit but were not awarded a tax credit shall be placed on a waitlist in the order the applications are received. Applications that are placed on a waitlist shall be given priority for receiving tax credits in succeeding fiscal years. Placement on a waitlist pursuant to this paragraph shall not constitute a promise binding the state. The availability of a tax credit and issuance of a tax credit certificate pursuant to this rule in a future fiscal year is contingent upon the availability of tax credits in that particular fiscal year or years. This subrule shall apply only to applications received on or before March 31, 2022.

b. Any application that can be partially approved without exceeding the maximum aggregate amount of tax credits will be approved as to the portion less than the maximum aggregate amount and placed on a waitlist as to the portion greater than the maximum aggregate amount. For example, if an application is eligible for \$50,000 of tax credits, but there is only \$30,000 of the maximum aggregate amount available, the application will be approved for \$30,000 and placed on a waitlist for \$20,000.

**115.6(6) *Applications received on or after April 1, 2022.***

a. Applications for tax credits received on or after April 1, 2022, will not be placed on a waitlist if the maximum aggregate amount of tax credits is awarded in a given fiscal year.

b. Beginning on or after April 1, 2022, the authority will identify an application period, or periods, on the authority's Internet site at [www.iowaeda.com](http://www.iowaeda.com) for each fiscal year in which an allocation of tax credits is available and has not been fully utilized by applications previously placed on a waitlist pursuant to subrule 115.6(5). Only applications submitted during the established filing window will be reviewed for eligibility by the authority. Each identified application period will remain open until the date indicated by the authority for that fiscal year.

c. Applications received on or after April 1, 2022, in excess of the maximum aggregate amount of tax credits for the fiscal year in which they are received will be denied by the board, regardless of whether the investment was otherwise eligible to receive a tax credit award.

d. Any application that can be partially approved without exceeding the maximum aggregate amount of tax credits will be approved as to the portion less than the maximum aggregate amount and denied as to the portion greater than the maximum aggregate amount. For example, if an application



is eligible for \$50,000 of tax credits, but there is only \$30,000 of the maximum aggregate amount available, the application will be approved for \$30,000 and denied for \$20,000.

ITEM 8. Amend rule 261—115.7(15E) as follows:

**261—115.7(15E) Claiming the tax credits.** To claim a tax credit under this chapter, a taxpayer must ~~attach to~~ include with that taxpayer's tax return a certificate issued pursuant to this chapter when the return is filed with the department of revenue. For more information on claiming tax credits, see department of revenue rule rules 701—42.22(15E,422), 701—52.21(15E,422), and 701—58.11(15E,422). ~~In the case of tax credits issued for investments made on or after July 2, 2015, a taxpayer shall not claim a tax credit at the department of revenue prior to September 1, 2016.~~

ITEM 9. Amend rule 261—115.8(15E) as follows:

**261—115.8(15E) Notification to the department of revenue.** Upon the issuance and distribution of investment tax credits for a tax year, the authority shall promptly notify the department of revenue ~~by providing copies of the tax credit certificates issued for such tax year to the department of revenue.~~ Such notification shall also include, but not be limited to, the aggregate number and amount of tax credits issued for the tax year.

ITEM 10. Amend rule 261—115.9(15E) as follows:

**261—115.9(15E) Rescinding tax credits.** In the event that a qualifying business fails to meet or maintain any requirement set forth in this chapter, the authority, upon action by the board, shall rescind any tax credit certificates issued to taxpayers for investments made after the date as of which the business's certification was revoked or expired and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate.

~~**115.9(1) Rescission of credits for investments in qualifying businesses.**~~

~~*a.*—In the case of investments made on or after July 1, 2011, and before January 1, 2014, within 24 months from the first date on which the equity investments qualifying for investment tax credits have been made, a qualifying business shall have secured total equity or near equity financing equal to at least \$250,000. The business shall provide to the authority information and documentation sufficient to demonstrate that the business has secured total equity or near equity financing equal to at least \$250,000 and that such financing was secured within the 24 months required by this rule and shall do so by the equity deadline. For purposes of this subrule, the "equity deadline" shall be the next June 30 following the end of the calendar year in which the qualifying business is required to have secured total equity or near equity financing equal to at least \$250,000. For example, a qualifying business in which equity investments qualifying for investment tax credits were made in 2011 shall have an equity deadline of June 30, 2014. Examples of sufficient information and documentation include, but are not limited to, the following:~~

~~(1) Corporate, partnership or limited liability company certified resolutions setting forth the names of individuals or entities making capital contributions and the amounts of such capital contributions;~~

~~(2) Certified corporate, partnership, or limited liability company minutes reflecting the names of individuals or entities making capital contributions and the amounts of such capital contributions.~~

~~*b.*—On or by the equity deadline, a qualifying business shall certify to the authority, by a statement signed by an officer, director, member, manager, or general partner of the qualifying business, that it secured the requisite amount of equity financing required by this rule within 24 months from the date on which the equity investments qualifying for investment tax credits were made and shall recertify to the authority that the qualifying business continues to meet the requirements set forth in subrule 115.5(1).~~

~~*c.*—In the event that a qualifying business fails to meet or maintain any requirement set forth in this rule, including, without limitation, timely filing of the certifications described in paragraph 115.9(1) "b," the authority, upon action by the board, shall rescind any tax credit certificates issued to those taxpayers and shall notify the department of revenue that it has done so. A tax credit certificate that has been~~

rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate. In addition, the authority shall remove the qualifying business from the registry and shall issue written notification of such removal to the qualifying business and the applicants.

**115.9(2) *Rescission of credits for investments in community-based seed capital funds.***

*a.*—A community-based seed capital fund shall have invested at least 33 percent of its invested capital in one or more separate qualifying businesses on or by the last day of the 48-month period that commences with the fund's investing activities.

*b.*—On or by the last day of the 48-month period described in paragraph 115.9(2) "*a*," a community-based seed capital fund shall certify to the board, by a statement signed by an officer, director, member, manager, or general partner of the community-based seed capital fund, that it has met the requirements of this rule within the time period prescribed by this subrule and shall recertify to the board that the community-based seed capital fund continues to meet the requirements set forth in subrule 115.5(2).

*c.*—In the event that a community-based seed capital fund fails to meet or maintain any requirement set forth in this subrule, including, without limitation, timely filing of the certifications described in paragraph 115.9(2) "*b*," the authority, upon action of the board, shall rescind any tax credit certificates issued to limited partners or members and shall notify the department of revenue that it has done so. A tax credit certificate that has been rescinded by the authority shall be null and void, and the department of revenue will not accept the tax credit certificate. In addition, the authority shall remove such community-based seed capital fund from the registry and shall issue written notification of such removal to the community-based seed capital fund and the applicants.

*d.*—Notwithstanding paragraphs 115.9(2) "*a*" to "*c*," a community-based seed capital fund may apply to the authority for a one-year waiver from the requirements of this rule. The authority shall, upon review of a community-based seed capital fund's application for waiver, exercise reasonable discretion in granting or denying such waiver. In the event that the authority grants to a community-based seed capital fund a one-year waiver from the requirements of this rule, the authority shall defer any rescission of the tax credit certificates until the expiration of such one-year waiver period. If the community-based seed capital fund meets the requirements of this rule by the expiration of such one-year waiver period, the tax credit certificates shall not be rescinded. However, the tax credit certificates shall be rescinded at the end of such one-year waiver period if such requirements have not been met.

ITEM 11. Amend subrule 115.10(1) as follows:

**115.10(1) *Additional information.*** The authority may at any time request additional information and documentation from a qualifying business or community-based seed capital fund regarding the operations, job creation and economic impact of such qualifying business or community-based seed capital fund, and the authority may use such information in preparing and publishing any reports to be provided to the governor and the general assembly.

ITEM 12. Amend **261—Chapter 115**, implementation sentence, as follows:

These rules are intended to implement Iowa Code chapter 15E, division subchapter V, and 2011 Iowa Acts, Senate File 517.